

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ORLANDO DEMETRIUS MITCHELL,

Plaintiff,

v.

Case Number 23-10325

Honorable David M. Lawson

Magistrate Judge David R. Grand

FRANK LAMARCA, HENRY FORD
ALLEGIANCE HOSPITAL, and
JOHN DOES,

Defendants,

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ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING IN PART AMENDED COMPLAINT

Presently before the Court is the report issued on February 27, 2023 by Magistrate Judge David R. Grand under 28 U.S.C. § 636(b) on a filing by the plaintiff which Judge Grand interpreted as an amended complaint. Because the defendant presently is incarcerated at the G. Robert Cotton Correctional Facility in Jackson, Michigan, Judge Grand conducted the required screening of the plaintiff's amended complaint under the Prison Litigation Reform Act (PLRA). He determined that the plaintiff failed to state a claim against most of the defendants added to the complaint on the grounds that each is either immune, not subject to suit under section 1983 as a prison facility, not personally involved in the plaintiff's alleged mistreatment, or not alleged to have acted with a sufficiently culpable state of mind. He recommended dismissal of the plaintiff's claims against those defendants. However, Judge Grand concluded that the plaintiff had alleged sufficient facts to state an Eighth Amendment claim against defendant Dr. Darrel Barrows, and he ordered the Clerk of Court to prepare the necessary forms to effectuate service on him. Defendants Henry Ford Allegiance Hospital and Frank Lamarca separately have filed a motion to dismiss, which remains pending before Judge Grand.

The deadline for filing objections to the report has passed, and no objections have been filed. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Tchrs. Loc. 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the report and recommendation (ECF No. 26) is **ADOPTED** and the defendant's claims against MDOC; KCF; SLF; Warden Mike Brown; Deputy Warden Jeffrey Howard; Deputy Warden Barb Storay; Deputy Warden Bruce Bigger; Warden Secretary Sherry Lajole; Prison Counselor Kandy Wright; Kirt Mahar; Patricia Lamb, RN; Grievance Coordinator M. Gustafson; and Hearings Administrator Richard D. Russell are **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that the previous order of reference to the assigned magistrate judge (ECF No. 11) is **CONTINUED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 28, 2024